

DETAILED ACTION

Status of Application

1. The amendment filed on October 23, 2009, cancelling all subject matter drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the original claims are drawn to a different method of use and utilizing a different composition.

2. Newly amended and submitted claims 109-110, 114, and 125-132 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

On March 2, 2009, Applicant elected Group II, i.e. Claims 109-114, drawn to a method of controlling fungal growth on a plant comprising applying a composition consisting of chlorothalonil and an adjuvant composition, without traverse. The newly submitted claims are broader in scope and are not drawn to the elected subject matter. The newly amended claimed are drawn to "A method of improving the degree of efficacy of an active component or speed of action of an active component" comprising applying a composition comprising any active component and an adjuvant composition to a plant. The newly amended claimed are no longer drawn to treating fungal growth on a plant, but improving the efficacy of an active component. Thus, the newly amended claims are drawn to an entirely different invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. See 37 CFR 1.142(b) and MPEP § 821.03.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTIE L. BROOKS whose telephone number is (571)272-9072. The examiner can normally be reached on M-F 8:30am-6:00pm Est..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann R. Richter can be reached on (571) 272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Johann R. Richter/
Supervisory Patent Examiner, Art Unit 1616